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**HF 626** – Sales and Use Tax Nexus and Electronic Fairness (LSB 1498HV)  
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Fiscal Note Version – New

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**Description**

**House File 626** expands the definition, for sales and use tax collection purposes, of a retailer maintaining a place of business in the state to include any person that has substantial nexus in Iowa, other than a common carrier, if that person engages in any of the following activities:

- Sells a similar line of products as the retailer and does so under the same or a similar name.
- Maintains an office, distribution facility, warehouse, storage place, or similar place of business in the state to facilitate the delivery of property or services sold by the retailer to the retailer's customers.
- Uses trademarks, service marks, or trade names in the state that are the same or substantially similar to those used by the retailer.
- Delivers, installs, assembles, or performs maintenance services for the retailer's customers.
- Facilitates the retailer's deliveries of property to customers in the state by allowing the retailer's customers to take delivery of property sold by the retailer at an office, distribution facility, warehouse, storage place, or similar place of business maintained by the person in the state.
- Conducts any other activities in the state that are significantly associated with the retailer's ability to establish and maintain a market for the retailer's sales.

This Bill requires the Department of Revenue (DOR) to determine the amount of sales tax revenue generated as a result of enactment of this Bill and deposit those sales and use tax revenues in the Taxpayer Trust Fund.

Additionally, contingent upon enactment of federal legislation that allows states to impose a sales and use tax on remote sellers and after sixteen months of this state exercising that authority, the DOR is required to submit a report with specified requirements to the General Assembly.

**Assumptions**

- Currently, the DOR already considers some of the expanded definitions provided in this Bill to establish nexus; therefore, companies meeting those criteria should already be remitting sales tax. Additionally, the department is not aware of any current retailers that will be impacted by this Bill.
- In order to administer and enforce the added provisions specified in HF 626, the DOR has indicated an additional 4.0 FTE positions (an attorney position, an auditor position, a technical tax specialist position, and a revenue examiner or statistical research analyst position) will be required to capture additional sales and use tax revenue. Without these additional positions, it is unclear if any additional sales and use tax revenue will be remitted as a result of this Bill.
- One-sixth of any additional sales and use tax revenue resulting from enactment of this Bill will be first deposited in the Secure an Advanced Vision for Education (SAVE) Fund and the remainder will be deposited in the Taxpayer Trust Fund.

- To fulfill reporting requirements that are contingent on enactment of the federal legislation, the DOR will incur one-time costs associated with system, program, and database upgrades to provide for additional accounting functionality required to identify remote sellers. Additionally, the DOR will require ongoing costs for 1.0 FTE accountant position.

### **Fiscal Impact**

There will be no revenue impact to the State General Fund.

Any sales and use tax increases resulting from HF 626 will increase amounts to the SAVE Fund and the Taxpayer Trust Fund, but that amount is currently unknown. The costs for the additional FTE positions required for administration and enforcement is estimated at \$435,000 each fiscal year. If no additional funding is provided to the DOR for administration and enforcement of this Bill, the estimated additional revenue may be negligible.

In order to meet the specified reporting requirements specified in HF 626, the DOR will require one-time funding of \$150,000 for system and database upgrades and ongoing funding of \$105,000 and 1.0 FTE position. However, these funding levels and the FTE position needs are contingent on enactment of federal legislation.

### **Source**

Iowa Department of Revenue

/s/ Holly M. Lyons

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April 17, 2013

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The fiscal note for this bill was prepared pursuant to **Joint Rule 17**. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.

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